

House File 684 - Introduced

HOUSE FILE 684

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 175)

A BILL FOR

1 An Act providing limited immunity from certain criminal
2 offenses and prohibiting certain disciplinary sanctions for
3 persons under twenty-one years of age who report, seek, or
4 require emergency assistance for alcohol overdoses, and
5 modifying penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, Code 2019, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 7. A person shall not be charged or
4 prosecuted for a violation of this section if the person is
5 immune from charge or prosecution pursuant to section 701.12.

6 Sec. 2. Section 123.47, Code 2019, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 5A. A person shall not be charged or
9 prosecuted for a violation of subsection 3 or 4 if the person
10 is immune from charge or prosecution pursuant to section
11 701.12.

12 Sec. 3. Section 123.47B, Code 2019, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 1A. If a person under the age of
15 eighteen is discovered consuming or to be in possession of
16 alcoholic liquor, wine, or beer, but the person is immune from
17 prosecution under section 701.12, a peace officer shall make a
18 reasonable effort to identify the person and notify a juvenile
19 court officer of such person's consumption or possession.

20 Sec. 4. Section 262.9, Code 2019, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 39. Prohibit an institution of higher
23 education under its control from imposing any of the following
24 disciplinary sanctions against a student for possession or
25 consumption of alcohol if the student is immune from charge or
26 prosecution pursuant to section 701.12:

- 27 *a.* Removal from a course.
28 *b.* Enrollment restrictions in a course or program.
29 *c.* Suspension or expulsion from the university.
30 *d.* Eviction or exclusion from student housing.

31 Sec. 5. Section 321.216B, Code 2019, is amended to read as
32 follows:

33 **321.216B Use of driver's license or nonoperator's**
34 **identification card by underage person to obtain alcohol.**

35 1. A person who is under the age of twenty-one, who alters

1 or displays or has in the person's possession a fictitious
 2 or fraudulently altered driver's license or nonoperator's
 3 identification card and who uses the license to violate or
 4 attempt to violate [section 123.47](#), commits a simple misdemeanor
 5 punishable as a scheduled violation under section 805.8A,
 6 subsection 4. The court shall forward a copy of the conviction
 7 to the department.

8 2. A person shall not be charged or prosecuted for a
 9 violation of this section if the person is immune from charge
 10 or prosecution pursuant to section 701.12.

11 **Sec. 6. NEW SECTION. 701.12 Persons under the age of**
 12 **twenty-one seeking emergency assistance for overdose — immunity.**

13 1. A person under the age of twenty-one years shall not be
 14 charged or prosecuted for the violation of any of the following
 15 offenses if the evidence for the charge was obtained as a
 16 result of the person in good faith seeking emergency medical
 17 assistance for the person or another person due to an alcohol
 18 overdose:

19 a. Section 123.46.

20 b. Section 123.47, subsection 3 or 4.

21 c. Section 321.216B.

22 2. To be eligible for immunity under this section, the
 23 reporting person, or persons acting in concert, must do all of
 24 the following:

25 a. Be the first person to seek emergency assistance.

26 b. Provide the reporting person's name and contact
 27 information to medical or law enforcement personnel.

28 c. Remain on the scene until assistance arrives or is
 29 provided.

30 d. Cooperate with medical and law enforcement personnel.

31 3. The person for whom emergency assistance was sought as
 32 described in subsection 1 shall not be charged or prosecuted
 33 for an offense listed in subsection 1.

34 **EXPLANATION**

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill provides immunity from certain alcohol-related
3 criminal offenses and prohibits certain disciplinary sanctions
4 for certain persons who seek or require emergency assistance
5 for alcohol.

6 The bill creates new Code section 701.12, which provides
7 that a person under the age of 21 shall not be charged or
8 prosecuted for public intoxication, possession of alcohol under
9 the legal age, or use of a driver's license by an underage
10 person to obtain alcohol, if the person in good faith sought
11 emergency assistance for the person or another person due to
12 an alcohol overdose. A person seeking emergency assistance is
13 only eligible for immunity if the person, or persons acting
14 in concert, is the first person to seek emergency assistance,
15 provides the reporting person's name and contact information
16 to medical or law enforcement personnel, remains on the scene
17 until assistance arrives or is provided, and cooperates with
18 medical and law enforcement personnel. The bill also provides
19 immunity to the person for whom emergency assistance was
20 sought.

21 Under Code section 232.52, a juvenile court may suspend
22 or revoke the driver's license or operating privilege of a
23 person under the age of 18, for a period of one year, who
24 has violated Code section 123.46 or 123.47 or Code chapter
25 124. Because the bill provides immunity to persons from those
26 provisions, a person under the age of 18 who receives immunity
27 from prosecution under the bill will not face the loss of such
28 person's driver's license for one year.

29 The bill provides that if a person under the age of 18 is
30 discovered consuming or to be in possession of alcohol but
31 receives immunity from prosecution under Code section 701.12,
32 a peace officer shall notify a juvenile court officer of
33 such person's consumption or possession. Under Code section
34 123.47B(2), the juvenile court officer is required to notify
35 the person's custodial parent, legal guardian, or custodian and

1 the superintendent of authority in charge of the school the
2 person attends of the consumption or possession.

3 The bill directs the board of regents to prohibit the regents
4 universities from imposing certain disciplinary sanctions
5 against a student for the possession or consumption of alcohol
6 if the student is immune from prosecution pursuant to new Code
7 section 701.12. The prohibited disciplinary sanctions are the
8 removal from a course, enrollment restrictions in a course
9 or program, suspension or expulsion from the university, or
10 eviction or exclusion from student housing.

11 The bill makes conforming Code changes.